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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/939,116	08/24/2001	Richard J. Ulinski	4315P232X	3357

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EXAMINER

PONOMARENKO, NICHOLAS

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 11/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/939,116

Applicant(s)

ULINSKI ET AL.

Examiner

Nicholas Ponomarenko

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-16, 18-24 and 26-33 is/are rejected.
- 7) ☒ Claim(s) 10, 17, 25 and 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims 1, 15, 24 and 30 are generally narrative and indefinite, failing to conform with current U.S. practice, because the language of the claims do not provide desired clarity and precision, since the scope of the invention sought to be patented cannot be determined from the language of the claim with a reasonable degree of certainty. *In re Wiggins*, 488 F.2d 538, 179 USPQ 421 (CCPA 1973).

Claims 1, 15, 24 and 30, as written, do not provide a working system, because its broad language has too many choices, opened to interpretations, and do not provide to one of ordinary skill in the art a working system with a defined functionality. The language of the claims 1, 15, 24 and 30 is functional.

Additionally, in claims 1 and 30 a phrase "system comprising:" is indefinite, and in claim 24 a phrase "method comprising:" is indefinite.

Claims 3 and 4 recite the limitation "power demanded by a load". There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "without an interruption" power demanded by a load". There is insufficient antecedent basis for this limitation in the claim.

Regarding claim 5, the phrase "at least" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 7 depends on claim 5, but recites limitations of claim 6, which makes claim unascertainable.

Language of claim 8 is incomprehensible.

Claim 9 is not clear, because it appear as redundant.

In claim 20, the phrase "at lest in one" is indefinite.

Claim 24 has grammatical errors.

Claim 33 appears as redundant.

The remaining claims are indefinite because they depend on the rejected claim and do not correct the noted problem.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. As far as they can be understood, Claims 1, 15, 24 and 30 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ruthlein et al. (US 5,698,905).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. As far as they can be understood, Claims 1-9, 11-16, 18-24 and 26-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruthlein et al. (US 5,698,905), as applied to claims 1, 15, 24 and 30 above, and further in view of common knowledge in the art.

It is understood by the examiner that applicant system is a power generating system with a generator AC output being converted and inverted and supplied to a load. A battery is charged and utilized as a power source, when output of the generator cannot cover the load demand, essentially as taught by Ruthlein et al.. But Ruthlein et al. fails to teach specific control steps and trigger points as in claims 5, 8, 20 or 22, which are known in the art and is obvious to the common artisan as a scheme design features.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to a power generation system as taught by Ruthlein et al. and to

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add control steps as required by the specification in order to provide a design functionality for the specified application.

Allowable Subject Matter

7. Claims 10, 17, 25 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant(s) disclosure.

When the claims are amended, applicant(s) should state in detail where in the original disclosure or in the drawings the amended features find support. **No new matter may be introduced.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Nicholas Ponomarenko** whose telephone number is **(703) 308-1776**.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, Mon. - Fri., 8 AM - 5:30 PM

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np

21 novembre 2002



Nicholas Ponomarenko
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